

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 MICHAEL DUNN,

12 Plaintiff,

13 v.

14 STATE OF CALIFORNIA,

15 Defendant.

16 Case No: 3:07-CV-04267 EMC

17 **[PROPOSED] ORDER ON
DEFENDANT STATE OF
CALIFORNIA'S MOTION TO
DISMISS**

18 Hearing: November 21, 2007
Time: 10:30 a.m.
Courtroom: C - 15th Floor.
Judge: The Honorable
Edward M. Chen

19 This matter came before the court on November 21, 2007 for hearing on a motion to
20 dismiss pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) by defendant State of
California. All parties were represented by counsel at the hearing and oral argument was heard.

21 Having considered all written materials submitted in connection with the motion, and
22 after hearing from the parties, the Court finds that it lacks jurisdiction over the subject matter of
23 the complaint because plaintiff lacks standing to bring his claims against the defendant State of
24 California. Additionally, plaintiff's claims against the State of California are barred by Eleventh
25 Amendment immunity. Finally, the complaint fails to state a viable claim upon which relief may
26 be granted.

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[PROPOSED] ORDER ON DEFENDANT'S MOTION TO DISMISS

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1 Accordingly, IT IS HEREBY ORDERED that:

2 1. The State of California's motion to dismiss pursuant to Rules 12(b)(1) and 12(b)(6)
3 is granted; and
4 2. The complaint is dismissed without leave to amend.

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6 Dated: _____

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The Honorable Edward M. Chen